

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>In re United States Patent Application of:</b>	)	<b>Docket No.:</b>	<b>4354-110</b>
	)		
<b>Applicants:</b>	)	<b>Conf. No.:</b>	<b>4322</b>
<b>CABANA, Bernard E., et</b>	)		
<b>al.</b>	)		
	)		
<b>Application No.:</b>	)	<b>Art Unit:</b>	<b>1614</b>
<b>10/668,792</b>	)		
	)		
<b>Date Filed:</b>	)	<b>Examiner:</b>	<b>Spivack, Phyllis G.</b>
<b>September 23, 2003</b>	)		
	)		
<b>Title:</b>	)	<b>Customer</b>	
<b>RIFALAZIL</b>	)	<b>No.:</b>	<b>23448</b>
<b>COMPOSITIONS AND</b>	)		
<b>THERAPEUTIC</b>	)		
<b>REGIMENS</b>	)		

**CERTIFICATE OF EFS FILING**

I hereby certify that this document is being filed via EFS in the United States Patent and Trademark Office on February 2, 2010.  
/david bradin/

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**RESPONSE TO NOVEMBER 3, 2009 FINAL OFFICE ACTION IN U.S. PATENT  
APPLICATION NO. 10/668,792**

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

The USPTO issued a Notice of Improper Request for Continued Examination (RCE) on January 11, 2010 and again on January 21, 2010, noting that the Requests for Continued Examination (RCE) filed in the above-identified application on December 31, 2009 and January 13, 2010 were improper. The Notices stated that neither Request was accompanied by a submission. Although each Request had referred to a previously submitted Amendment, the Amendment had been entered.

**BACKGROUND**

In response to the second Notice, the undersigned attorney contacted Examiner Gloria Trammell at the U.S. Patent and Trademark Office on January 27, 2010. Examiner Trammell indicated that each of the Requests for Continued Examination filed on December 31, 2009 and

January 13, 2010 were improper because the Amendment filed on July 1, 2009 was entered.

However, we note that while the Examiner considered the arguments in the Response filed July 1, 2009, the claims presented therein as ‘new’ were not considered or entered by the Examiner. Further, the Examiner indicated, in a teleconference with the undersigned on December 29, 2009, that new claims 52-60 of the application, as well as claims 1-4 and 49, would be considered following the filing of a Request for Continued Examination (RCE) in the application. A copy of the official Interview Summary setting out the Examiner’s instructions is enclosed herewith. On the basis of these instructions, an RCE was filed in this application by the undersigned attorney on December 31, 2009.

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The following responds to the Final Office Action mailed in connection with the above-identified application on November 3, 2009.

The Notice further indicates that the time period set forth for response to the Final Office Action continues to run from the mailing date of that action. The November 3, 2009 Final Office Action set a period of three months for response until February 3, 2010; therefore, this response is timely filed and no extension of time is required.

Additionally, enclosed and submitted herewith is a corrective Request for Continued Examination Transmittal (Form PTO/SB/30), and online credit card payment in the full amount of the \$405.00 fee (small entity) specified in 37 CFR 1.17(e) for such Request.

Please amend the claims of the above-identified patent application as set out in **Section I (Amendments to the Claims)**, beginning on page 3 hereof.

Remarks concerning the amendments to the claims and the substance of the Office Action are set out in **Section II (Remarks)** hereof.